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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Bell Atlantic Telephone Companies)

Tariff FCC No. 1)

Transmittal No. 1076)

To: Competitive Pricing Division)

CC Docket No. 98-168

**OPPOSITION OF HYPERION TELECOMMUNICATIONS, INC.
TO BELL ATLANTIC DIRECT CASE**

Hyperion Telecommunications, Inc. ("Hyperion") hereby submits its Opposition to the Direct Case of Bell Atlantic Telephone Companies ("BA"), filed in the above-referenced docket on October 6, 1998. The tariff filed by BA is improper because the ADSL service it provides for is not interstate access, as BA claims; indeed, the service is not interstate service at all, but local service. Thus the tariff for such service is properly filed at the state, not the federal, level. Moreover, the filing of the tariff is a transparent attempt to end-run important Commission policies, as well as to evade BA's responsibility to pay reciprocal compensation to other carriers for transporting and terminating traffic. For these reasons, the tariff filing must be rejected.

I. ADSL SERVICE TO INTERNET SERVICE PROVIDERS IS NOT EXCHANGE ACCESS.

At the threshold, the Commission should reject BA's ADSL tariff as defective because the services provided thereunder are not exchange access. Accordingly, the tariff is not properly filed as an "exchange access" tariff.

Exchange access is defined by the Communications Act as "the offering of access to telephone exchange services or facilities for the purposes of the origination and termination of *telephone toll services*." 47 U.S.C. § 153(16) (emphasis added). Telephone toll service is defined

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by the Act in turn as "telephone service between stations in different exchange areas for which there is made a separate charge not included in the contracts with subscribers for exchange service." 47 U.S.C. § 153(48). Thus, in order for the ADSL service provided by BA to constitute exchange access under the Act, the service must be used for the purposes of the origination and termination of telephone toll services. However, the services and facilities that BA proposes to provide will connect local exchange end users to ISPs. But the service provided by ISPs is not telephone toll service — it is not even telecommunications. As the Commission has recently told Congress, ISPs "generally do not provide telecommunications." In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report to Congress*, FCC 98-67 ¶¶ 15, 55 (rel. Apr. 10, 1998). Instead, ISPs provide information services. *Id.* ¶ 81.¹ Because ISPs do not provide telecommunications service, they necessarily do not provide telephone toll service, and BA's ADSL service offering cannot be exchange access as defined by the Act.

Nor would the filings be proper under the Commission's definition of "Access Service" -- services and facilities provided for the origination and termination of any interstate or foreign telecommunications." 47 C.F.R. § 69.2(b). The services and facilities BA proposes to provide may be telecommunications, but they terminate with the ISP, and from that point the ISP provides information, not telecommunications, services. No "interstate telecommunications" are being provided at any point, and so BA's proposed ADSL service is not access service under the Commission's definition. In short, under either the Act or the rules of the Commission, the ADSL services proposed by BA are not exchange access, and this tariff must be rejected.

¹ Information services and telecommunications services are mutually exclusive. *Id.* ¶¶ 13, 39.

II. THE COMMISSION SHOULD REJECT THE TARIFF BECAUSE PERMITTING BA TO TARIFF THE SERVICE AT THE FEDERAL LEVEL WOULD VIOLATE IMPORTANT COMMISSION POLICIES.

BA's attempt to improperly treat its ADSL services as "exchange access" service for purposes of its tariff filings should also be rejected because it is inconsistent with important Commission policies. In effect, BA is attempting an end-run around these policies and this attempt should not be countenanced.

Foremost among the policies which these filings attempt to circumvent is the continuing Commission recognition that it is inappropriate to require ISPs to pay interstate access charges. BA attempts to justify such circumvention by suggesting that the policy is meant to be a narrow, one-time "exemption" for ISPs from charges to which they would otherwise be subject, a sort of regulatory fluke which should not be repeated here. *E.g.*, BA Direct Case at 9. In its access charge reform proceeding, the Commission has been explicit that this policy remains sound for several reasons — and that it is *not* a mere one-time exemption:

The access charge system contains non-cost based rates and inefficient rate structures, and this Order goes only part of the way to remove rate inefficiencies. Moreover, given the evolution in ISP technologies and markets since we first established access charges in the early 1980s, it is not clear that ISPs use the public switched network in a manner analogous to IXC's. . . . As commenters point out, many of the characteristics of ISP traffic (such as large numbers of incoming calls to Internet service providers) may be shared by other classes of business customers.

In the Matter of Access Charge Reform, CC Docket No. 96-262, *First Report and Order*, 12 FCC Rcd 15982, ¶ 345 (1997), *aff'd sub nom. Southwestern Bell Tel. Co. v. FCC*, 1998 WL 485387 (8th Cir. 1998) (hereinafter "*Access Reform Order*"). The Commission noted that LECs would be compensated for their costs by selling service to the ISPs under state tariffs, and any failure to be

fully compensated for such costs could be remedied by an appropriate appeal to *state* regulators. *Id.* at ¶ 346. Accordingly, the Commission determined: "ISPs should remain classified as *end-users* for purposes of the access charge system." *Id.* at ¶ 348 (emphasis added).

BA asserts that the Commission intended the original 1983 ruling that enhanced service providers would not be subject to access charges to be merely transitional, and that accordingly, the Commission should not apply the ruling to this new service. BA Direct Case at 9-10. This ignores the fact that the allegedly "transitional" policy has now remained in place for *fifteen* years and has been reaffirmed *this year* by the Commission in the *Access Charge Reform Order*. The burden is on BA to explain why this well-considered, long-standing policy should be departed from; it is not, as BA would have it, on others to show why it should once again be adhered to.

As the Commission stated, it had been the Commission's expectation that ISPs would connect their services with end-users by purchasing services from local tariffs — and so they have. These services include business lines, dedicated lines, and, most recently, ISDN. All have been tariffed on a local basis. Indeed, two other RBOCs who have now filed interstate DSL tariffs — Pacific and BellSouth — have also filed state tariffs for providing DSL service to end-users. While BA appears to believe that it can force ISPs to purchase under its newly filed interstate tariff, the policy of the *Access Reform Order* clearly dictates that ISPs should — as end users — be permitted to purchase ADSL as a local service from state tariffs.

BA attempts to get around this unavoidable conclusion by disingenuously interpolating two words into the Commission's orders that do not appear there. On page 9 of its direct case, it states: "This Commission has held that, under [the ISP] exemption, ISPs are classified as 'end users' *solely* 'for purposes of applying access charges.'" The emphasis is in BA's original — and remarkably

shows that BA pins its entire argument on a word that is conspicuously *not* part of the Commission's order. As the *Access Charge Reform Order* makes clear, the Commission determined generally that ISPs are not analogous to carriers and that they appear not to use the network in the same manner as IXC's. *Access Charge Reform Order* at ¶ 344, 345. While the Commission was, to be sure, focusing on the classification of ISPs in the context of access charges, nowhere did it state or imply that ISPs are not also end-users for other purposes, as BA claims.

Second, BA claims that the ruling that ISPs are not subject to access charges is meant solely to ensure that ISPs are able to purchase services from "existing" state tariffs — meaning, evidently, services that were tariffed at the state level when one or more of the access charge orders were issued. But BA does not cite to any language in any of the Commission's orders that shows the Commission's intent to have been so narrow. To the contrary, the acceptance of BA's analysis would be dramatically at odds with the long-accepted regulatory framework for dealing with the use by end users, *including* ISPs, of local facilities and services for interconnecting with data networks and the Internet. A tariff proceeding such as this one is hardly the place for such a regulatory revolution, which would in any event be profoundly ill-advised.²

² Twenty-one state public utility commissions have already considered this issue with respect to dial-up traffic and ruled that traffic to ISPs is intrastate in nature. *See* Exhibit 1. By contrast, not a single commission has ruled that calls to ISPs are jurisdictionally anything other than local calls. All these states have ruled that ILECs are required to pay reciprocal compensation for such traffic under the terms of the interconnection agreements at issue. BA appears to be trying to undermine these rulings through the subterfuge of their jurisdictional arguments on this tariff filing. This Commission should firmly reject their tactic. If the Commission should decide, notwithstanding the analysis set forth herein, that ADSL is an interstate service, it should explicitly limit this decision to ADSL service and expressly state that it is not altering the twenty-one state decisions or future decisions by other states that hold dial-up traffic to ISPs to be local.

Other Commission policies have implicitly recognized what a regulatory morass would result from the approach BA advocates, especially as regards cost allocation and separations. The ADSL service uses the same local loop for which the end user is now paying monthly residential or business line charges under a state tariff. Yet BA has not presented a methodology for separating and allocating these costs. The "mix-and-match" rule promulgated by the Commission in its Open Network Architecture (ONA) proceeding recognized that allowing an ESP to mix state and federal BSAs and BSEs could cause a mismatch of revenues and costs, could seriously undermine local policies, and could result in inconsistent terms and conditions resulting from differences between state and federal tariffs. In re Amendments of Part 69, CC Docket No. 89-79, *Notice of Proposed Rulemaking*, 4 FCC Rcd 3983 at ¶¶ 43-47 (1989). But precisely the same problems would arise here. Upon conversion of a particular local loop, the same local loop that today is tariffed at the state level would, if BA had its way, be tariffed simultaneously at the state level (for voice services) and at the federal level (for ADSL). Patently, a mismatch of costs and revenues could occur, local policies (such as avoiding double recovery for the same facility) jeopardized, and inconsistencies arise.³

All of these are very good reasons for the Commission to do here as it has done elsewhere — recognize that services designed to link ISPs to other end-users are best tariffed as local, intrastate services, just like any other local link between two end users. The Commission should reject this attempt by BA to induce it to diverge from this wise policy. It is important to stress that such

³ BA has also flouted the Commission's order in its *Advanced Services* rulemaking, In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, CC Docket No. 98-147, FCC 98-188, (rel. August 7, 1998). In that order, at ¶¶ 50-57, the Commission expressly held that ADSL is subject to the unbundling requirements of the Act. Yet BA has not made a showing as to how it will comply with this requirement.

rejection will *not* delay the availability of ADSL service in the marketplace. BA can readily draft and file state tariffs to cover the service and the states have consistently shown their willingness and ability to quickly process such tariff filings. Arguments that federal tariffing is necessary to speed the service to market are transparently specious.

III. BA'S ADSL SERVICE IS AN INTRASTATE TELECOMMUNICATIONS SERVICE THAT TERMINATES AT THE ISP.

The tariff proposed is clearly for an intrastate service. ADSL provides for the use of a local loop that terminates between end users — one of which is an ISP — located in the same state. As this Commission noted in the context of reciprocal compensation:

We define "termination" for purposes of section 251(b)(5) [the reciprocal compensation provision of the 1996 Act] as the switching of traffic that is subject to section 251(b)(5) [e.g. local traffic] at the terminating carrier's end office switch (or equivalent facility) and delivery of that traffic from that switch to the called party's premises.⁴

A call to an ISP using ADSL goes through the end office and is delivered to the ISP — the called party. It is by the Commission's own definition a local service. The Commission has noted in several instances in the related area of dial-up traffic to ISPs that telecommunication services "terminates" at the ISP's local phone number;⁵ this is because the service provided by the ISP after the call terminates at the ISP is not *telecommunications* service, but information service.

BA asserts that an "end-to-end" interstate communication occurs because users are able to access information stored on out-of-state computers. But this ignores the fact that the interstate

⁴ In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd 15499 ¶ 1040 (August 8, 1996) (hereinafter "*First Report and Order*").

⁵ See, e.g., *id.*

component is information services, not telecommunications. The cases cited by BA are clearly distinguishable from the situation here. In all those cases, the *telecommunications* component originated in one state and terminated in another. That is not the case here; rather, ADSL provides a telecommunications connection to an end user — the ISP — at whose premises the telecommunications connection is terminated.

BA argues that its position is supported by "two call" cases, in which the Commission has held that when two calls are made that constitute a single, end-to-end communication, they will be combined for jurisdictional purposes. BA Direct Case at 7. According to BA, these cases are analogous to its ADSL service because an Internet session assertedly consists of two "calls," one between an end user and an ISP and the other into the Internet. But here again, BA has glossed over the distinction between telecommunications and information services. In the cases cited by BA, both "calls" were patently telecommunications services, and so were properly combined for jurisdictional purposes. But in the instant case, the second "call" is not, properly speaking, a "call" at all, but rather the provision by the ISP of information services. The fact that these information services may (or may not) include the interactive retrieval of information that is stored in a state other than that where the end user is located does not change the character of the telecommunications service. By BA's logic, a call to a reference librarian at a local public library would be transformed into an interstate communication if the reference librarian used the Internet in looking up the answers to questions posed by the caller.

At the heart of BA's argument, which becomes apparent in the last part of its Direct Case, is its desire to avoid paying reciprocal compensation for ADSL service between end users and ISPs, or indeed for any "Internet-bound" traffic. BA sets the tone for its case when it derisively dismisses

reciprocal compensation as a "boondoggle" — a word BA likes so much it uses it twice. BA Direct Case at 2, 11. But as any fair reading of the Act reveals, reciprocal compensation is a key provision of the Act designed to spur competition. Tossing it aside, as BA would prefer, would allow BA to use the facilities of CLECs to transport and terminate traffic without paying compensation to the CLECs in the event the end user on one end of the traffic is an ISP. The inequity of such a result would be patent. Indeed, it was recognized by all twenty-one of the states that have examined the issue so far. *Every one* of those states, as noted above, has held that reciprocal compensation for dial-up traffic to ISPs is required and that such traffic is local, despite the vociferous efforts of BA and other ILECs seeking the opposite outcome. Thus, it is Orwellian Newspeak for BA to state, as it does on page 10, that a Commission finding that ADSL is interstate will "avoid" conflict with the states.

In the face of these uniform state holdings, BA rather half-heartedly asserts that exclusive interstate tariffing of ADSL is needed because exercise of state jurisdiction would "thwart or impede" the Commission's objective to promote advanced technology. BA Direct Case at 6. Its support for this proposition is limited to the conclusory assertion that state proceedings are "duplicative" and "potentially protracted," and that they would "subject[] this single inseverable service to multiple and potentially conflicting requirements from the Commission and various state commissions." *Id.* This amounts to nothing more than the assertion that states have no role to play in the promotion of advanced services — hardly what Congress had in mind. Contrary to BA's claim that ADSL is a "single inseverable service," nothing is further from the truth: ADSL uses discrete

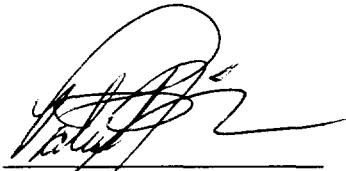
facilities in each locality in which it is offered — local loops and DSLAMs — that are readily "severable" from the facilities used in other localities and readily reviewable by the states.⁶

CONCLUSION

BA's tariff filing is unlawful and contrary to this Commission's well-established policies.

It should be rejected.

Respectfully submitted,



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⁶ Indeed, in arenas where it suits BA's interests, BA has expressly argued that the states are better equipped than the Commission to make decisions on such matters as collocation and unbundling for advanced services because of their greater familiarity with local conditions. *See, e.g.*, BA Comments in response to the NPRM in CC Docket No. 98-147 *et al.* at 32, 41-43.

EXHIBIT 1

LIST OF STATES FINDING CALLS TO ISPS TO BE LOCAL

STATE COMMISSION DECISIONS REGARDING RECIPROCAL COMPENSATION FOR LOCAL TRAFFIC TO INTERNET SERVICE PROVIDERS

1. **ARIZONA:** *Petition of MFS Communications Company, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions with US WEST Communications, Inc., Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996*, Opinion and Order, Decision No. 59872, Docket No. U-2752-96-362 *et al.* (Az. C.C. Oct. 29, 1996) at 7. US West has appealed the decision on other issues to the United States District Court for the District of Arizona, Docket Nos. U-3021-96-448 (consol.).
2. **COLORADO:** *Petition of MFS Communications Company, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of Interconnection Rates, Terms, and Conditions with US WEST Communications, Inc.*, Decision Regarding Petition for Arbitration, Docket No. 96A-287T (Co. PUC Nov. 5, 1996) at 30. The Colorado Public Utilities Commission has since affirmed its rejection of US West's efforts to exclude ISP traffic from reciprocal compensation by rejecting such a provision in a proposed US West tariff. *The Investigation and Suspension of Tariff Sheets Filed by U S West Communications, Inc. With Advice Letter No. 2617, Regarding Tariffs for Interconnection, Local Termination, Unbundling and Resale of Services*, Docket No. 96A-331T, Commission Order, at 8 (Co. PUC July 16, 1997). US West has appealed the arbitration decision to the United States District Court for the District of Colorado, Civil Action Nos. 97-D-152 (consol.).
3. **WASHINGTON:** *Petition for Arbitration of an Interconnection Agreement Between MFS Communications Company, Inc. and US WEST Communications, Inc., Pursuant to 47 USC § 252*, Arbitrator's Report and Decision, Docket No. UT-960323 (Wash. Utils. and Transp. Comm. Nov. 8, 1996) at 26; The U.S. District Court for the Western District of Washington upheld the WUTC decision. In its decision, the District Court stated that the WUTC decision not to change the current treatment of ESP calls as eligible for reciprocal compensation is "properly based on FCC regulations which exempt ESP providers from paying access charges." *U S West Communications, Inc. v. MFS Intelenet, Inc. et al.*, Order, No. C97-222WD (W.D. Wash. January 7, 1998) at 8 (Citing 47 C.F.R. Part 69). US West has appealed the district court decision to the United States Court of Appeals for the Ninth Circuit, Case No. CV-97-00222-WLD.
4. **MINNESOTA:** *Consolidated Petitions of AT&T Communications of the Midwest, Inc., MCImetro Access Transmission Services, Inc., and MFS Communications Company for Arbitration with US WEST Communications, Inc., Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996*, Order Resolving Arbitration Issues, Docket Nos. P-442, 421/M-96-855, P-5321, 421/M-96-909, P-3167, 421/M-96-729 (Minn. PUC Dec. 2, 1996) at 75-76. US West has appealed the arbitration decision to the United States District Court for the District of Minnesota, Civil Action No. 97-913 MJD/AJB.

5. **OREGON:** *Petition of MFS Communications Company, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. Sec. 252(b) of the Telecommunications Act of 1996*, Commission Decision, Order No. 96-324 (Ore. PUC Dec. 9, 1996) at 13. US West has appealed the arbitration decision to the United States District Court for the District of Oregon, Civil Action No. CV97-857-JE.
6. **NEW YORK:** When WorldCom filed a complaint with the New York Public Service Commission ("NYPSC") after New York Telephone (now owned by Bell Atlantic) began to unilaterally withhold payment of reciprocal compensation for local exchange traffic delivered to ISPs served by WorldCom, the NYPSC ordered New York Telephone to continue to pay reciprocal compensation for such traffic. *Proceeding on Motion of the Commission to Investigate Reciprocal Compensation Related to Internet Traffic*, Case 97-C-1275, Order Denying Petition and Instituting Proceeding (N.Y. PSC. July 17, 1997). The Order also instituted a proceeding to consider issues related to Internet access traffic. On December 17, 1997, the New York Commission approved a Recommendation in that proceeding. Public Session of the Public Service Commission, December 17, 1997 (N.Y. PSC) at 14-15. *See also*, Order Closing Proceeding, (NYPSC March 19, 1998).
7. **MARYLAND:** The Maryland Public Service Commission ruled on September 11, 1997 that local exchange traffic to ISPs is eligible for reciprocal compensation. Letter dated September 11, 1997 from Daniel P. Gahagan, Executive Secretary, Maryland Public Service Commission, to David K. Hall, Esq., Bell Atlantic-Maryland, Inc. On October 1, 1997, the Commission rejected Bell Atlantic's petition for reconsideration. Bell Atlantic appealed the decision to the Circuit Court for Montgomery County (CA No. 178260); the Circuit Court upheld the Commission decision. A written decision is not available.
8. **CONNECTICUT:** The Connecticut Department of Public Utility Control has also concluded that these calls are subject to reciprocal compensation. *Petition of the Southern New England Telephone Company For a Declaratory Ruling Concerning Internet Service Provider Traffic*, Docket No. 97-05-22 (Conn. DPUC Oct. 10, 1997) at 11.
9. **VIRGINIA:** The Virginia State Corporation Commission reached the same conclusion. *Petition of Cox Virginia Telcom, Inc. for Enforcement of interconnection agreement with Bell Atlantic-Virginia, Inc. and arbitration award for reciprocal compensation for the termination of local calls to Internet service providers*, Final Order, Case No. PUC970069 (Va. S.C.C. Oct. 24, 1997) at 2; Notice of Appeal Withdrawn.
10. **TEXAS:** On February 5, 1998, the Texas Public Utility Commission reversed an arbitrator's ruling and found that calls made by Southwestern Bell Telephone's end users that terminated to ISPs on competitors' networks are local calls entitled to reciprocal compensation under interconnection agreements. *Complaint and Request for Expedited Ruling of Time Warner Communications*, Order, PUC Docket 18082 (TX PUC, February 27, 1998). As the Commission's Chairman concluded, "... I do feel comfortable that (a) we have jurisdiction; that (b) these are local calls that should be compensated accordingly; and that (c) I don't really see any ability or desire on my part to undo a business contract." *Id.* at 23. The

United States District Court for the Western District of Texas affirmed the Commission decision. *Southwestern Bell Telephone Co. v. Public Utility Commission of Texas*, Case No. MO-98-CA-43, June 22, 1998.

11. **WEST VIRGINIA:** The West Virginia Commission also concluded that “calls that originate and are terminated to ISPs in local calling areas are treated as local traffic -- regardless of whether the ISP reformats or retransmits information received over such calls to or from further interstate (or international) destinations.” *Petition For Arbitration of Unresolved Issues For the Interconnection Negotiations Between MCI and Bell Atlantic - West Virginia, Inc.*, Order, Case No. 97-1210-T-PC (W.Va. PSC Jan. 13, 1998) at 29.
12. **MICHIGAN:** On January 28, 1998, the Michigan Public Service Commission concluded that Ameritech’s withholding of reciprocal compensation in Michigan violated its interconnection agreements. *Consolidated Petitions of Brooks Fiber Communications of Michigan, Inc., TCG Detroit, MFS Intelenet of Michigan, Inc. and Brooks Fiber Communications of Michigan, Inc. against Michigan Bell Telephone Company, d/b/a Ameritech Michigan and Request for Immediate Relief*, Order, Case Nos. U-11178, U-11502, U-11522, U-11553 (Mich. PSC Jan. 28, 1998) at 1. The Commission held that FCC precedent, the interconnection agreements “on their face,” and Ameritech’s conduct and implementation of the interconnection agreements “fully support a conclusion that those agreements require reciprocal compensation for calls to ISPs.” *Id.* at 8, 11, 14-15. Ameritech has appealed the Commission decision to the United States District Court for the Western District of Michigan, Case No. 5:98-CV-18.
13. **NORTH CAROLINA:** *In the Matter of Interconnection Agreement Between BellSouth Telecommunications, Inc. and US LEC of North Carolina, LLC*, Order Concerning Reciprocal Compensation for ISP Traffic, Docket No. P-55, Sub 1027 (N.C. Util. Comm. Feb. 26, 1998) at 6. BellSouth has appealed the Commission decision to the United States District Court for the Western District of North Carolina, Civil Action No. 3:98CV170H.
14. **ILLINOIS:** *Teleport Communications Group, Inc. v. Illinois Bell Telephone Company, Ameritech Illinois, et al.*, Docket Nos. 97-0404, 97-0519, 97-0525 (Consol.), Order, (Ill. C.C. Mar. 11, 1998) at 15. The United States District Court for the Northern District of Illinois affirmed the Commission’s decision. *Illinois Bell Telephone v. WorldCom Technologies, Inc.*, Case No. 98-C-1925, Memorandum Opinion and Order, July 21, 1998.
15. **MISSOURI:** The Missouri Public Service Commission found that calls to ISPs should be treated and compensated as if they are local calls by the parties pending the FCC’s final determination of the issue. *In the Matter of the Petition of Birch Telecom of Missouri, Inc. For Arbitration of the Rates, Terms, Conditions, and Related Arrangements for Interconnection with Southwestern Bell Telephone Company*, Arbitration Order, Case No. TO-98-278 (Mo. P.S.C. Apr. 23, 1998) at 8.
16. **WISCONSIN:** The Wisconsin Public Service Commission found that calls to an Internet service provider are local traffic - not switched exchange access service – under an applicable

interconnection agreement. *Re: Contractual Dispute About the Terms of an Interconnection Agreement Between Ameritech Wisconsin and TCG-Milwaukee, Inc.* Letter from Lynda L. Dorr, Secretary to the Commission, Public Service Commission of Wisconsin, to Rhonda Johnson and Mike Paulson, dated May 13, 1998. Ameritech has appealed the decision to the United States District Court for the Western District of Wisconsin, Civil Action No. 98 C 0366 C.

17. **OKLAHOMA:** *In the Matter of Brooks Fiber Communications of Oklahoma, Inc. et al. For An Order Concerning Traffic Terminating To Internet Service Providers and Enforcing Provisions of the Interconnection Agreement With Southwestern Bell Telephone Company*, Case No. PUD 970000548, Order No. 423626 (June 3, 1998).
18. **PENNSYLVANIA:** *Petition for Declaratory Order of TCG Delaware Valley, Inc.*, Docket No. P-00971256, (June 16, 1998).
19. **TENNESSEE:** *Petition of Brooks Fiber to Enforce Interconnection Agreement and for Emergency Relief*, Docket No. 98-00118, voted to Affirm Hearing Officer, June 2, 1998.
20. **FLORIDA:** *Complaint of World[Com] Technologies, Inc. Against BellSouth Telecommunications, Inc., for Breach of Terms of Florida Partial Interconnection Agreement Under Sections 251 and 252 of the Telecommunications Act of 1996 and Request for Relief*, Docket No. 971478-TP, Final Order Resolving Complaints, Order No. PSC-98-1216-FOF-TP (Fla. PSC Sep. 15, 1998).
21. **OHIO:** *Complaint of ICG Telecom Group, Inc., v. Ameritech Ohio Regarding the Payment of Reciprocal Compensation*, Case No. 97-1557-TP-CSS, Opinion and Order (PUCO, Aug. 27, 1998).

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of October 1998, copies of the foregoing

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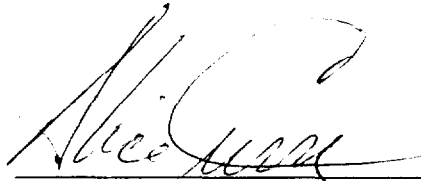
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